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Hon. Ann Aiken

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

RODNEY D. ENGLERT, an Individual

6:05-CV-01863-AA

Plaintiff,

v.

SECOND AMENDED AND
SUPPLEMENTAL COMPLAINT

HERBERT LEON MACDONNELL, an
Individual; TERRY L. LABER; an
Individual; BARTON P. EPSTEIN; an
Individual; PETER R. DE FOREST, an
Individual; STUART H. JAMES, an
Individual; and PATRICIA LOUGH, an
Individual,

Defendants.

Plaintiff alleges:

1. At all material times, plaintiff was engaged in business and possesses a private corporate business incorporated under the laws of the State of Oregon under the name of Englert Forensic Consultants.

2. Plaintiff's business function is to provide forensic consultation and expert witness testimony related to homicide investigations and other criminal investigations, and provide investigative skills and in-court testimony primarily for Federal and State prosecuting attorneys and has engaged in such activities for more than 25 years.

3. Defendant Herbert Leon MacDonell purports to be a forensic consultant and has engaged in an effort to defame Plaintiff by publishing written defamatory messages of and concerning Plaintiff which were published and republished in Multnomah County and were discovered by Plaintiff in Oregon on or about September 12, 2005.

4. Defendant MacDonell published written defamatory statements attached to this Second Amended and Supplemental Complaint as Exhibits 1 and 2 (the "Statements"). These written defamatory messages of and concerning Plaintiff accused Plaintiff of the following:

- A. Plaintiff is a forensic whore;
- B. Plaintiff has a curriculum vitae that contains false information;
- C. Plaintiff is a liar-for-hire;
- D. Plaintiff is a deliberate liar;
- E. Plaintiff is dishonest and should not be trusted;
- F. Plaintiff is a very smooth charlatan; and
- G. Plaintiff is the Bin Laden of bloodstains.

5. The publications and or republications of the Statements by Defendant MacDonell imputes that Plaintiff is a liar, engages in false statements, is dishonest, cannot be trusted, engages in activities in his profession that involve material

misrepresentations, misrepresents his qualifications and credentials, engages in gross professional misconduct and provides false testimony in court.

6. The publication and or republications of the Statements by Defendant MacDonell were false and were intended to be published and republished in several states including Oregon.

7. The Statements were published and/or republished by Defendant MacDonell in Multnomah County and elsewhere and are defamation per se, because the messages falsely speak of Plaintiff in his profession or trade. Plaintiff is entitled to nominal damages for libel per se.

8. As a direct and proximate result of the Defendant MacDonell's publication and or republications of the Statements, Plaintiff has suffered a loss of earning capacity in his chosen profession, including the loss of several specific engagements. Plaintiff has also had to expend uncompensated time and effort to maintain other engagements by providing evidence of the untruth of the Statements to the professionals that retained Plaintiff's services. Plaintiff has incurred special damages by loss of earning capacity in an amount not less than \$948,000, the precise amount to be proven at trial.

9. As a result of Defendant MacDonell's publication and or republications of the Statements, Plaintiff has been brought into public contempt and ridicule, has been diminished in the esteem, respect, goodwill and confidence in which he had been held and has been disgraced and degraded. As a further consequence of Defendant MacDonell's publication and republication of the Statements, Plaintiff has suffered embarrassment and emotional anguish. As a consequence of the forgoing, Plaintiff has suffered general non-economic damages in the amount of \$3,000,000.

WHEREFORE, Plaintiff prays for a judgment against Defendant MacDonell as follows:

1. In the amount of \$1,000 in nominal damages for libel per se (damage to trade or business);
2. In the amount of at least \$948,000 in special damages for loss of earnings and uncompensated time in defending Plaintiff's reputation in his trade or business;
3. In the amount of \$3,000,000 in general non-economic damages; and.
4. For Plaintiff's costs and disbursements incurred herein.

DATED: _____, 2012.

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From : "Herbert Leon MacDonell" <forensic@localnet.com>
To : "Donald Rehkopf" <drehkopf@brennallaw.com>, "Andrea Rentfro" <andreaarentfro@msn.com>
Subject : Re: Rod Englert - needing to verify claims of involvement
Date : Sat, 28 Jun 2003 16:51:42 -0400

Dear Andrea,

I have read the portion of Rod Englert's CV you sent and have seen this many times before. Undoubtedly, Englert is the biggest whore the forensic community has had to deal with since Fred Zain. His CV demonstrates how dishonest he really is.

Here are the facts:

- 1) I asked Rod Englert to give a paper during the first Advanced Bloodstain Evidence Institute ever conducted. It was held in Corning, NY in November 1983. He spoke for a little over an hour. Neither he nor any of the other speakers could be considered faculty; they were guest speakers.
- 2) The correct title of my program is: Advanced Bloodstain Evidence Institute. Bloodspatter is one word, not two.
- 3) There was no program on bloodstain evidence held in Corning, NY in October 1983.
- 4) When he lists, "Taught Advanced Blood Spatter Interpretation for Professor Herb MacDonell, Corning, NY" it implies that he filled in for me and I wasn't even there? He gave a lecture. He did not teach for me in any way other than to give his paper. I resent his using "Herb" in a document. My name is Herbert.
- 5) On 11 or 12 March 2002 Rod Englert testified before Judge Alfred E. Ferguson in Huntington, West Virginia. It was during the murder trial of Harold Fraley. He admitted that his CV overstated his involvement in the Advanced Bloodstain Institute held in November 1983 and said, under oath, that he would remove it from his CV. I heard this testimony. If he is still using the same CV he is a liar, so what else is new? You might like to contact the defense attorney who retained me in this case, George Stolze. His telephone number is: 304-529-6262 and I am sure he would be willing to give you his opinion of Englert.

I shall send this to Mr. Don Rehkopf to save you the time in forwarding a copy to him. If I had the e-mail address for Mr. Margulls I would have sent a copy to him as well.

I hope you will be successful in showing Englert up for what he is (or isn't?). His time is long overdue. Some time ago I heard a colleague refer to Englert as BLOBS so I asked him what it meant. He replied Englert is the Bin Laden Of Blood Stains!

If there is anything further that I can do for you please do not hesitate to ask.

Herbert MacDonell, Director
BLOODSTAIN EVIDENCE INSTITUTE
LABORATORY OF FORENSIC SCIENCE

VAN METER DEC. EX. 7
(Pltf's Depo Ex. 9)

EXHIBIT 1 - 2ND AMEND. COMPLAINT
PAGE 1 OF 1

Cindy Wilmoth

From: "Herbert Leon MacDonell" <forensic@localnet.com>
To: "Philip Thornton" <pthorntonatty@qwest.net>; "Cindy Wilmoth" <cindykwilmoth@hotmail.com>
Sent: Wednesday, October 08, 2003 5:25 PM
Attach: Hawali News.htm
Subject: Re: Confirmation of Member Status

Dear Mr. Thornton,

The following letter was prepared to be sent to Ms. Wilmoth but after thinking about it I thought she might be an agent for some son-of-a-bitch who might be defending Englert. That is why I changed my attitude and sent her the letter you received. What I originally wrote to her but did not send is as follows:

Dear Cindy,

At last I have found something about Rod Englert that is accurate. Yes, he was President of IABPA in 1989 and 1990. At that time it was the usual custom to have the president serve two terms for no other reason than that was what had happened in the past.

I am confident that had the members known how dishonest Englert is back in 1989, as he has since has shown himself to be, he would never have held any kind of an office in that organization. Personally, I consider him to be the biggest forensic whore since Fred Salem Zain in West Virginia whose greatest contribution to forensic science was made in 2002 when he died at age 52.

I am embarrassed to admit that Englert was one of my students. However, as I once answered when asked that question I replied, "Yes, he was one of my students; but I didn't teach him to be dishonest!"

There are many people making inquiries about Englert. Had I known then what I know now I would never have asked him to present a paper at one of my meetings in 1983. He is a very smooth charlatan and will always find what the prosecution wants him, if not asks him, to find to help their case. His CVs have always contained false information and I hope he will finally be shown up for what he is, a liar-for-hire.

If you need more ammunition to show Englert for the whore he is call an attorney who is presently "loaded for bear" to tear Englert apart in Hilo, Hawaii. He is attorney Gerald D. Lee Loy and he may be reached at (808) 933-1758. Don't forget the time zone differences. To give you an idea as to what Lee Loy is doing I shall attach or forward a copy of the Hawaii Tribune Herald so you can see what is going on there.

Anything you can do to show this whore for what he is will be appreciated by the members of the International Association of Bloodstain Pattern Analysts, not the "Blood Pattern Analysts" as Englert lists it on his CV. God, wouldn't you think he could at least get the name of the association he was president of right on his CV?

----- Original Message -----

From: Cindy Wilmoth

To: forensic@localnet.com

Sent: Wednesday, October 08, 2003 12:38 PM

Subject: Confirmation of Member Status

I am writing to obtain confirmation of Rod Englert's status as "Past President" of the International Association of Blood Pattern Analysts. If you would be so kind as to provide the time frame for which Mr. Englert held this position (if in fact he did) it would be greatly appreciated.

Thank you for your kind attention to this matter.

Cindy Wilmoth,

VAN METER DEC. EX. 8
(Pltf's Depo Ex. 10)

EXHIBIT 2 - 2nd Amend Complaint
PAGE 1 OF 2

Legal Assistant to Philip E. Thornton

VAN METER DEC. EX. 8
(Pltf's Depo Ex. 10)

EXHIBIT ² -2nd Amend Complaint
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